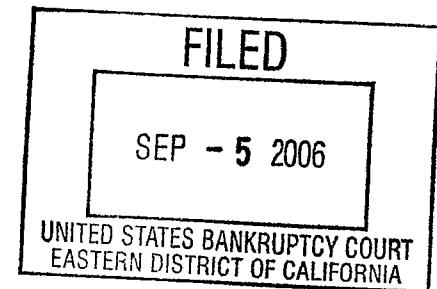


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5 UNITED STATES BANKRUPTCY COURT

6 EASTERN DISTRICT OF CALIFORNIA
7 MODESTO DIVISION

8 In re:) Case No. 03-94183-D-7

9 FLOYD SHERWOOD HILL,)

10 Debtor.)

11 MICHAEL McGRANAHAN, CHAPTER 7) Adversary No. 03-9223
12 TRUSTEE, and WILLIAM ANDREWS)

13 Plaintiffs,)

14 v.)

15 FLOYD SHERWOOD HILL and JANET) DATE: August 30, 2006
16 HILL,) TIME: 10:30 a.m.
17 Defendants.) DEPT: D18 MEMORANDUM DECISION ON MOTION FOR AMENDED JUDGMENT19 Chapter 7 trustee, Michael D. McGranahan ("Trustee"), filed a
20 Motion for Amended Judgement (the "Motion") seeking to amend and/or
21 supplement the Judgment After Trial entered by the court on June 22,
22 2006 (the "Judgment"). For the reasons stated below the court will
grant the Motion in part and deny the Motion in part.23 The Motion requests that the Judgment be amended or supplemented
24 as follows:25 1. Paragraph 3 of the Judgment states that Floyd Hill
26 ("Debtor") transferred checks totaling \$105,000 to Janet Hill on
27 December 31, 2005 and that these transfers were a fraudulent
28 conveyance under 11 U.S.C. §548(c)(1)(A) (the "Fraudulent Conveyance

1 Payment"). The Motion asserts that Paragraph 3 of the Judgment
2 contains a clerical or typographical error in that the checks were
3 transferred on or about December 31, 2002;

4 2. The Judgment should provide for interest on the Fraudulent
5 Conveyance Payment from December 31, 2002 through date of the
6 Judgment;

7 3. The Motion requests that the court amend the Judgment to
8 state that Floyd Hill has an undivided interest in the assets of the
9 Janet Hill Trust and that the undivided interest should be quantified
10 at 50%; and

11 4. The Judgment should allow an award of costs in favor of the
12 Trustee as the prevailing party.¹

13 In regard to the Trustee's first request, the record is clear,
14 and the opposition does not contest the Fraudulent Conveyance Payment
15 was made on or about December 31, 2002. Accordingly, the Judgment
16 will be amended to correct this typographical error.

17 In regard to allowing interest on the Fraudulent Conveyance
18 Payment, the Motion cites no authority to support this request. At
19 the hearing counsel for the Trustee stated that it is within the
20 discretion of the court to award interest on the Fraudulent
21 Conveyance Payment but, again, provided no authority for this
22 position. It is incumbent upon the party seeking relief to cite
23 proper legal authority for their position. The Trustee, having
24 failed to cite any authority for his request for interest, and

25
26 ¹ At the hearing for the first time counsel for Trustee
27 requested the court award attorneys fees in addition to costs.
28 The Motion did not request attorneys fees, nor were fees prayed
for in the Motion. As such, at the hearing the court would not
consider this request for relief.

1 conceding that it is within the discretion of the court, the court
2 declines to award interest on the Fraudulent Conveyance Payment.

3 In regard to the Trustee's request that the court find the
4 Debtor has an undivided interest (50% interest) in the assets of the
5 Janet Hill Trust, the request is denied. The Janet Hill Trust was
6 not named as a defendant in the underlying complaint. Accordingly,
7 the court has no jurisdiction over the Janet Hill Trust or over the
8 assets of the Janet Hill Trust. It is fundamental due process that
9 for the court to issue a judgment allocating property between, or
10 among, parties the court must have jurisdiction over the entity
11 owning the property and the property itself. The court does not have
12 jurisdiction over the Janet Hill Trust or its assets. Accordingly,
13 this aspect of the Motion is denied.

14 Lastly, the Trustee seeks costs as the prevailing party. The
15 court does find that the Trustee is the prevailing party in the
16 attendant action and will award costs.

17 An amended Judgment will be entered consistent with this
18 memorandum decision.

19

20 Dated: SEP - 5 2006

Robert Bardwil
21 Robert S. Bardwil
United States Bankruptcy Judge

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Certificate of Service

I certify that on 9/5/06 a copy of the foregoing document was mailed to the following:

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FOR THE COURT
RICHARD G. HELTZEL
CLERK, U.S. BANKRUPTCY COURT

By: Andrea Lovgren
Deputy Clerk